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7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
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10 ABANTE ROOTER AND PLUMBING,
11 INC., individually and on behalf of all others
12 similarly situated,

13 Plaintiff,

14 v.

15 TOTAL MERCHANT SERVICES, LLC, a
16 Delaware limited liability company,

17 Defendant.

Case No. 3:19-cv-05711-EMC

STIPULATION OF DISMISSAL

18 Pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), Plaintiff and Defendant, through their
19 undersigned counsel, hereby stipulate and agree to the dismissal of this action in its entirety with
20 prejudice with respect to all claims alleged by Plaintiff against Defendant, with all parties to bear
21 their own attorneys' fees and expenses.

22 Fed. R. Civ. P. 41(a)(1)(A)(ii) allows the parties to stipulate to the dismissal of an action
23 at any time. Rule 23(e) does not limit the right to stipulate to dismissal of this action because it
24 only applies to certified classes, and no class has been certified in this matter. Likewise, the case
25 does not involve any Receiver so as to implicate Rule 66.

26 Accordingly, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), Plaintiff and Defendant agree
27 that the action shall be dismissed in its entirety and with prejudice. Plaintiff and Defendant
28

further agree that each party is to bear its own attorney's fees and costs.

Dated: August 13, 2021

/s/ Patrick H. Peluso

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Dated: August 13, 2021

/s/ Lawren A. Zann

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DATED: 8/19/2021

